
Navient subpoena

Deepak Gupta <deepak@guptawessler.com>

Tue, Oct 23, 2018 at 11:41 AM

To: Natalie.Bilbrough@wilmerhale.com

Cc: Matthew Wessler <matt@guptawessler.com>, Karin.Dryhurst@wilmerhale.com, "Kearney, Daniel P." <Daniel.Kearney@wilmerhale.com>

Dear Natalie and Dan--

We're writing to address a few preliminary matters in connection with the subpoena. To be clear, this response in no way waives, releases, or otherwise affects any rights, defenses, objections, arguments, or claims that our client may have in connection with the subpoena.

First, we'll need to clarify the meaning and scope of a number of the proposed topics for deposition before we can assess whether the subpoena is appropriate, relevant, reasonable, and/or overly burdensome. So that we're able to better understand the scope and nature of the topics, please provide us with responses to the following:

Topics #1 & 2: These topics appear to seek privileged information. Please explain how, in your view, questioning on these topics would not necessarily seek privileged information. In addition, please clarify the scope and nature of the phrases "Communications related to the Investigation" and "in connection with the Action."

Topic #3: This topic appears to be significantly overbroad. Please clarify, among other things: (1) the relevant time frame for this topic, (2) the relevant "third parties," and (3) the relevant type of "communications" identified and sought. As above, this topic also appears to seek privileged information. Please explain how, in your view, questioning on this topic would not necessarily seek privileged information.

Topic #4: This topic is unclear to us. Please clarify your understanding of the phrase "your knowledge of the factual basis of the allegations." Again, this topic also appears to seek privileged information. Please explain how, in your view, questioning on this topic would not necessarily seek privileged information.

Topic #5: This topic is also unclear to us. Please clarify the nature and scope of the phrase "public statements." In addition, this topic appears to seek privileged information. Please explain how you intend to limit the scope of questions to avoid seeking privileged information.

Topic #6: This topic appears to be both overbroad and designed to seek privileged information. Please clarify how this topic—and, in particular, the reference to "proposed rules"—is relevant to the underlying claims in this case. Additionally, please clarify how questions relating to entities or individuals beyond the CFPB is relevant to the underlying claims in the case. Please also confirm that the scope of this question is limited only to communications related to the Federal Loan Rehabilitation Program.

Topic #7: Please clarify how this topic is relevant to the underlying claims in the case.

With respect to scheduling: We appreciate your courtesy in proposing new dates. Unfortunately, Mr. Frotman will be unavailable on the new dates that you propose due to previous longstanding commitments on his part. He would, however, be available during the week of December 10th, assuming of course that we are able to satisfactorily resolve all of the issues listed above without the Court's involvement.

Best,
Deepak and Matt

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